



WRAYNHAM'S CASE:  
OR, A  
VINDICATION  
OF THE  
Lord Chancellor *Bacon*.



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WRAVYNHAM'S CASE:  
OR A  
VINDICATION  
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A  
VINDICATION

OF THE

Lord Chancellor *Bacon*, (7.)

From the Asperſion of INJUSTICE,

Caſt upon him by

Mr. *WRATNHAM*.

CONTAINING

The ſaid Mr. *WRATNHAM*'s Representation of his own Caſe, and the Sentence pronounced againſt him.

Together with

The Learned Speeches of the JUDGES, *Hubbert*, *Coke*, and other Sages in the Law. *Archbiſhop Abbot*, and other Reverend Prelates. The Lord Chamberlain, Earl of *Arundel*, Sir *Fulk Grevill*, and other Noble Peers.

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*Now firſt Publiſhed from the Original Manuſcript.*

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L O N D O N;

Printed for J. *PEELE*, at *Locke's Head* in *Pater-  
noſter-Row*. M.DCC.XXV.

# VINDICATION

OF THE  
LORD CHANCELLOR'S

FROM THE ALLEGATION OF INJUSTICE

IN THE CASE OF

MR. W. R. V. H. M.

CONTAINING

THE CASE OF MR. W. R. V. H. M.  
AND THE CASE OF MR. W. R. V. H. M.



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*Wraynham's* C A S E, for  
Slandering the Lord  
Chancellor *Bacon* of In-  
justice.

*Sir* HENRY YELVERTON, At-  
torney-General.

*May it please your Lordships,*

**I**T is the Honour of this Court, that it represents the highest earthly Majesty, and his Presence; and it is his Majesty's Honour, that as himself is cloathed with Justice, so you, as the greatest and highest next his Majesty, shou'd put on the same Garment.

Clemency and Justice are the two Lights of every Kingdom, without which, your Persons and Estates wou'd be exposed to Violence, and without which, great Monarchies wou'd be but great Thefts; and as Injustice is not to be recompenced in Price, so ought not the Scandal hereof to go unpunished; especially, when

it toucheth so great a Person, as, in the sacred Seat of Justice, is next to the King: The chief Judge in this Court, and the sole Judge in Chancery, who is much defamed by the Gentleman at the Bar, in the most precious Point of all his Virtues, his Justice; be it spoken without Offence, safely and blamelessly is my Lord Chancellor traduced, as if he deserved, that all the Thunderbolts of Heaven shou'd fall upon him.

At my Lord's first coming into this Place, he found a Cause in Chancery, between this Gentleman at the Bar, and one Mr. *Fisher*, not controverted in the Title, but concerning the Value of the Lease, which *Fisher* held of *Wraynham*; in which, the Lord Chancellor perused the Proceedings of the Cause, called the Parties to give a Summary End to so tedious a Cause; and because the Success answered not the Desire of this Gentleman, therefore he kicks against Authority, who before was not more grieved at the Expence, than now impatient at the Sentence; which was not want of Justice in my Lord, but of Equity in the Cause.

I confess, I was of Counsel with Mr. *Wraynham*, and press'd his Cause as far as Equity wou'd suffer; but I know that Judges look with other Eyes than Counsellors do, they go not by Tale, but by Weight.

Weight. And therefore, their Judgment must answer their Counsel, and quiet the Mind of the Party: And tho' in Gaming, Losers may speak, yet in Judgment they must be silent; because, it is presumed that nothing is taken from them, but what is none of theirs. But this Gentleman being of an unquiet Spirit; afterwards, a secret Murmuring breaks out into a Complaint to his Majesty, and not staying his Return out of Scotland, but fancying to himself, as if he saw some Cloud arising over my Lord, wearying and tiring his Majesty with infinite Supplications in this Case. And now, my Lords, as if all his former Cause had been lost, he presents it no more in Parts, or loose Papers, but compiling his undigested Thoughts into a Libel, though the Volume were but in Quarto; fastens it on the King on *Good-Friday* last.

And his most Princely Majesty, finding it stuffed with most bitter reviling Speeches, against so great and worthy a Judge, hath of himself commanded me this Day, to set forth and manifest his Fault unto your Lordships, that so he might receive deserved Punishment.

In this *Velvet Pamphlet* (for this Book is bound in *Velvet*) is set forth his Cause, the Work of this Day; wherein Mr. *Wraynham* saith, he had two Decrees in

the first Lord Chancellor's Time, both under the Great Seal, and yet are both altered since the last Lord Chancellor's Death, and cancelled by this Lord Chancellor in a preposterous Manner; and First, *without Cause*; Secondly, *without Matter*; Thirdly, *without any legal Proceedings*; Fourthly, *without Precedent*; Fifthly, *upon the Party's bare Suggestions*; and Sixthly, *without calling Mr. Wraynham to answer*. And of this, my Lords, spightfully he imagines a threefold End: First, *to reward Fisher's Fraud and Perjuries*; Secondly, *to palliate his unjust Proceedings, and to rack things out Joint*; and Thirdly, *to confound Wraynham's Estate*: And that my Lord was therein led by the Rule of his own Fancy. But he stayeth not here; but, as if he wou'd set Spurs against my Lord, he aggravates my Lord's Injustice, to be worse than Murder; saying, that in his Sentence, he hath devoured him and his whole Family. And Secondly, as if one Sin shou'd follow upon another, he doubles it upon my Lord, and, in a manner, plainly gives my Lord the Lye. And hearing that my Lord had satisfied his Majesty in this Case; he saith in his Book, that he that did it unjustly, must, to maintain it, speak untruly, adding Falshood to my Lord's Injustice; saying in his Book, it is given out my Lord hath begged *Wraynham's Pardon*: which, tho'  
it

it be the Shew of a gentle Heart, yet it argues a guilty Conscience, and is but my Lord's Cunning to avoid the hearing of the Cause. And as if my Lord shou'd know his own Disease to be foul, and were unwilling to have it searched or discovered; he chargeth my Lord with Shifts, and tells him he hath palliated Oppressions with Greatness, Wit and Eloquence; and that the Height of Authority, makes Men act unjustly. And to make this yet more sharp, he urgeth, that my Lord, to maintain this, useth secret Means, whereby the Unsoundness of his Actions may not be seen, and so to avoid Censure; and, as if my Lord shou'd have Skill in Magick, he saith, that my Lord hath raised a Report from Hell of the late Master of the Rolls, which was confuted before his Face, and damned before his Death; not content to scandalize the Living, but so far, my Lords, doth his Malice overspread his Wisdom, that he doth not cease, with his Nails, to scrape the Dead out of their Graves again. When it is well known unto your Lordships, that the Master of the Rolls was a Man of great Understanding, great Pains, great Experience, great Dexterity, and of great Integrity; yet, because this Cause fell by Casualty into his Hands, by reference from the last Lord Chancellor, and he followed not this Man's Humour in the Report

port thereof, he brands him with these Aspersions, and adds this to the rest, That he grounded this Report upon Witnesses, that swore Impossibilities, gross Absurdities, and apparent Untruths. How can you but think, my Lords, but that this Gentleman's Head is full of Poison, seeing it fell out so fast then into his Pen, trampling upon the Dead? and this is an Addition unto his Punishment, the Injury of him that is dead, because the State yet lives, wherein his Justice is scandaliz'd.

And now, my Lords, that you may the more detest his Slanders, whereby he goeth about to slander my Lord Chancellor's Justice; give me Leave to open the plain and even Way, wherein this great Judge walks in the particular Case. The Questions in Chancery at first, were two, between *Wraynham* and *Fisher*, upon cross Suits, either against the other: *Wraynham* complains of Trust broken, whereby he was defrauded, *Fisher* upon a Debt of a private Reckoning detained by *Wraynham*. Upon Proof of both these, it was by assent order'd, that *Fisher* shou'd assign the Lease made unto him upon Trust, and *Wraynham* shou'd pay the Money, so well proved to be due to *Fisher*: So by assent was the Decree had, which is the first Decree.

But

But Mr. *Wraynham*, wisely suspecting that Mr. *Fisher* had incumbered his Lease, and if it shou'd be assigned to him according to the Decree, it wou'd be merely Illusory; he exhibits a new Bill to discover what Charge, and in what Sort, *Fisher* had charged the Land with Incumbrances. And Mr. *Wraynham* finding the Incumbrances greater, upon the Reference of the Lord Chancellor to the Master of the Rolls, a Bargain was mediated between them, that *Fisher* shou'd hold the Lease in question, and *Wraynham* shou'd have after the Rate of twelve Years Purchase; and to this, both assented: so that your Lordships see that the first Decree was not cancell'd by my Lord Chancellor, but discharged by himself; for by the Decree he might have had the Lease, but he contented himself with twelve Years Purchase.

After this, the Question grew upon the Values, which being referred to the last Master of the Rolls, how the Value was at first, before the Improvement, when it was in Lease to one *Harply*, and there upon Proof and Oath of divers Witnesses, the Master of the Rolls returned and certified the constant Proof of the Lease, to be worth 200*l.* by the Year; whereupon, *Wraynham* was to have it at twelve Years Purchase, amounting to 2400*l.* Mr. *Wraynham* seeing that the Land was much improved,

proved, by a Defence made by Sea and other Means, whereby the Nature of the Land was altered, and the Profit much raised; moves the Lord Chancellor not to recede from the Bargain, but saith, that the Value returned, was not the true Value, for the Land was worth 400 *l.* by the Year, and yet excepts the Retainor in his Hands, 2000 Marks, which he owed to *Fisher*, one thousand and sixty six Pounds odd Money; whereby now Mr. *Wrayham* had received his 2400 *l.* in his Purse; and when he saw himself thus fleeced, having receiv'd 2400 *l.* for that which cost but 200 *l.* now he stirs up new Suits, and moves the Lord Chancellor by a Commission to refer the Value to two Knights that had been Farmers to the Land, that they might certify the true Value. The one, *Sir L'Estrange Mor-dant*, who certifies the Value 388 *l.* and the other, *Sir Henry Spillman*, certified the Value to be 364 *l.* Yearly; and my Lord Chancellor strikes between them, and makes it 370 *l.* So here is difference of Values, the first of 200 *l.* upon Oath Yearly, and this at 340 *l.* Yearly, without Oath. The first Value is at the Time of *Harply's* Lease, the second is at the Time of the Commission granted, and after Improvement thereof, which your Lordships well know in your Wisdom, the Difference between Land barren, and improved in Value.

The

The last Lord Chancellor, according to the amounting Value of 340 l. a Year, annexed the Increase to *Wraynham's* Bargain, and that he shou'd have it, as if the Lands were worth 340 l. *per ann.* So that now, the 240 l. in his Purse, it had been worth 1680 l. annexed above 4000 l. Mr. *Fisher* finding this annexed to the Bargain, and that he shou'd be press'd to pay the Surplusage, and that he had choice either to pay the Money, or to part with the Lease; *Fisher* moveth the Court that he might give up the Lease, and desires his first 200 Marks with Damages, which *Wraynham* assented to, so that he might have Defalcation of that which *Fisher* had received of the Profits of the Land. Upon this, on consent of Parties, it was again decreed, (and this is the second Decree, which *Wraynham* so much triumphs upon; not being an absolute and positive Decree, but qualify'd with this:) First, that *Wraynham* shou'd pay the 2400 l. with Damages to *Fisher*: And secondly, that *Wraynham* shou'd have Defalcation of such Profits as Mr. *Fisher* had received out of the Land.

Mr. *Wraynham* strives with this second Decree, being willing to have the Value of the Land, not according as *Fisher* had received, but what he must have recovered.

Now my Lord Chancellor finding the Case thus standing, thought it no injustice

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against

against *Wraynham's* own Offer, that *Fisher* shou'd lose his Damages, having forborn 2400*l.* ten Years, nor that *Wraynham* shou'd be allowed more Defalcation than *Fisher* cou'd receive, because he was ty'd to a dry Rent; and finding that *Wraynham* was neither willing nor able to return the 2400*l.* with Damages unto *Fisher*, my Lord Chancellor thought fit to establish the Bargain, according to the first Certificate of the Master of the Rolls upon Oath; because the last Certificate without Oath, was not sufficient in the Ballance of Justice, as that with Oath, certified by the Master of the Rolls, upon the Examination of divers Witnesses.

Now, my good Lords, if this Cause thus stands, what Injustice is there committed? what Unsoundness is there in the Action? or, what Cause is there for my Lord Chancellor to hide himself, that this Gentleman shou'd in this Cause declaim against him this Day? If it were, my Lords, to make my Lord Chancellor, for fear, take off his Hand; he will let the World know he is more constant and courageous in points of Justice, than to go from that which he did so justly. And if it were to this End, to make my Lord Chancellor to dispute with Mr. *Wraynham*; I am to let you know from his Majesty, he will not let him forego, nor forget his Place, so much

as to enter into Debate with Mr. *Wraynham*, knowing that it were not fit for him, to stand to wrestle or wrangle with Mr. *Wraynham*, but rather, to despise so mean an Adversary.

My Lords, you know wise and just Men may walk the same Way, though not the same Passage; there are divers ways to the same End, Justice: for Justice sake, they are both to be honour'd, never to be blam'd. For my Lords, if Judges shou'd be traduced as unjust, because they differ in Opinion, they wou'd have thankless Offices. Justice is the Harmony of Heaven, but *Lingua detractionis est lancea triplex*. Though this Gentleman hath sweat hard to scoff and dare so high a Judge, yet the Rasor of his Tongue cannot charge him that any thing came between God and his own Conscience, but the Merits of the Cause; though it be certainly true, whilst a Man carries his Flesh about him, his Judgments and Faculties will be unperfect. Yet, my Lords, I know that my Lord is the Branch of such a Tree, who, though he blossom'd last, yet took more Sap from the Root than any of the rest: The Son living in the Memory of so worthy a Father, the Father living in the Memory of so vertuous a Son, who may say, as *Agessilaus* once said to his Father, *I obey you in Judgment, nothing contrary to Law,*

I am so glad this Gentleman is so naked of Excuse, yet heartily sorry his Defamation is so foul, as to draw such a Smart of Punishment as this will be upon him; and here if Necessity (the true Defender of Man's Weakness) shou'd step in, I answer, though Necessity break through all Laws, yet flying into the Face of Justice, it must be broken by Justice; else no Subject can be safe, nor no Court keep itself from Infamy.

It is well, my Lord, that this Fault falls out but seldom; for being exorbitant when it happens, it cannot be but foul. It is a pernicious Example; for by this, when Slanders are presented instead of Complaints, that is but to set Divisions between the King and his great Magistrates, to discourage Judges, and vilify Justice in the Sight and Mouths of all the People.

Therefore I beseech your Lordships to pardon me, if I be long, and suffer me to shew your Lordships what this Court, in like case, hath done.

In the second Year of his Majesty's Reign, when Sir *Edward Cooke*, according to his Place, informed against *Foorth* in this Court, *ore tenus*, for petitioning his Majesty against the last Lord Chancellor, for granting an Injunction for staying of a Suit at the Common Law, (which your Lordships know how necessary it is) he being convicted upon  
his

his own Confession, received a sharp Censure. I will conclude with this one, and I shall desire your Lordships, in this place, to hear it read; and then do humbly beseech your Lordships to hear the Gentleman at the Bar, either for his Defence, or Excuse.

Then *Wraynham's* Examinations were read in his Book and Epistle.

Then he was charged with these Words following, in the end of his Epistle to his Majesty: 'He that judges unjustly, must, to maintain it, speak untruly; and the Height of Authority maketh Men to presume.'

Also, in shewing of his Majesty Reasons why the Master of the Rolls was faulty, he said; First, the Master of the Rolls had omitted many of his material Proofs.

Secondly, He shifted off other some.

Thirdly, That he sometimes wrested the Equity of the Cause.

Fourthly, That he did falsely cite *Fisher's* Proofs.

Fifthly, That he grounded the Report upon the Deposition of Witnesses that swore Absurdities, Untruths, and mere Impossibilities.

And, Lastly, as if the Report had been condemned and damned before to the Pit of Hell, he said it was raised as *ab inferno*.

In his Epistle to his Majesty, he is charged with these Words.

‘ I understand my Lord Chancellor hath  
 ‘ begged my Pardon : it is outwardly the  
 ‘ shew of a great Heart, but inwardly it ar-  
 ‘ gueth a guilty Conscience ; otherwise, if  
 ‘ first, I had been found guilty, and his Lord-  
 ‘ ship should then have interceded with his  
 ‘ Majesty for me, it had then been an Argu-  
 ‘ ment of an indulgent Nature ; but to beg a  
 ‘ Pardon where there is no need, was mani-  
 ‘ festly done to avoid an hearing, and not  
 ‘ in pity towards me ; for he that despoils  
 ‘ me of my Goods, I will not trust him with  
 ‘ my Person : Therefore, far be it from me  
 ‘ to hope, or trust in his Goodness ; I dis-  
 ‘ claim his Favour, and infinitely deplore  
 ‘ the Judgment of his Majesty.’

And in the Conclusion of the Epistle were  
 these Words : ‘ I desire to suffer at your  
 ‘ Gates, if I dare to slander so great and  
 ‘ eminent a Judge unto so great and wise a  
 ‘ King.

‘ If he should not desire to reward the  
 ‘ *Fishers* for their Fraud and Perjuries, I  
 ‘ know not why he should have racked all  
 ‘ out of joint.

‘ My Lord, with this his last Cunning and  
 ‘ Rhetorick, hath palliated his unjust Pro-  
 ‘ ceedings against me ; for my Lord’s Gesture  
 ‘ and Pronunciation in his Speech, is  
 ‘ wanting in my writing, out of which a  
 ‘ cloudy Mist may rise to hide the Verity of  
 ‘ your princely Judgment.

‘ I could never see by what Reasons, or Words, his Lordship hath coloured his Dealings to excuse himself unto your Majesty, understanding only a Piece, and not the Whole from your Majesty. This must move me most humbly to beseech your Majesty to save my Wife and Children; and, out of your princely Justice, to appoint a Day of Hearing, whereby there shall appear unto your Majesty, as well the Sincerity of my Affirmations, as the Unsoundness of his Lordship’s Actions. For I never sought Corners, but openly, and sometimes in my Lord’s Presence, have notified and complained of my Wrongs, and desire a publick Hearing before your Majesty, which the greatest Subject dares not do, without Truth and Justice.’

And in another place, *Wraynham* saith, My Lord Chancellor moves nothing by Record, nor moves nor delivers any thing by writing, to answer the things objected against him; but would hide himself from the Eyes of your Majesty’s Justice.’

His Majesty saith, though he receive Petitions from his Subjects, against his highest Judges; yet he will have his Judges know, that they are subject to his Accompt only, and to none else upon Earth.

His Majesty received this Petition on *Good-Friday* last, in which this Gentleman hath so far exceeded the Measure of an humble

humble Complaint, that I must appeal to your Lordships against him.

Then was *Foorth's* Precedent read, bearing Date *Mercurij decimo quarto Novembr. tertio Mich. 2 Jac. 1.*

And likewise *Foorth's* two last Petitions against my Lord Chancellor, touching which, reference is had. And the Lords asked *Mr. Wraynham* what he could say for himself.

Mr. WRAYNHAM.

*Right Honourable, and my very Good Lords,*

**F**ROM a Man so perplexed with so many Miseries, what can be expected? and what marvel, if I should faulter, or might let fall any Speech that might seem uncomely?

*My Lords,* I know not how to behave myself, I will not willingly offend any, but especially the King's Majesty; yet Nature commands me to defend myself, for it cannot be thought he can be faithful to another, that is not so to himself. And therefore I humbly desire, that what I offer in Extenuation, or Defence, that neither the meanest that hear it, nor your Lordships, which are to judge of it, would take it offensively.

My Book consisteth of three Parts.  
First, An Epistle to his Majesty.

Se-

Secondly, The Body of the Book, which relateth the Truth of all the Proceedings.

And, Thirdly, the conclusive Speech in the nature of an Epilogue.

Touching the Body of the Book, and Truth of the Cause, I conceive it not now called in question, for I think your Lordships will not enter into the Particulars; but because it hath pleased Mr. Attorney to speak something of it, I will not be silent.

My Accusations, *my Lords*, are set forth in two Things: First, That the Complaint is of the Right Honourable the Lord Chancellor. Secondly, That it is in bitter and unreverend Terms.

For the first, I must fly for Succour and Protection to our dread Sovereign Lord the King: for it pleased his Majesty, sitting here in the sacred Seat of Justice, to declare, that if any were wronged in point of Justice, to him they might come and have redress; and for proof thereof, I humbly desire your Lordships to hear me read a Sentence or two in his Majesty's Book.

For (*saieth he*) if any were wronged, their Complaint should have come unto me; none of you but will confess you have a King of a reasonable Understanding, &c.

And in another place, Why then should you spare to complain unto me, being the High-way; therefore as you come gaping to the Law for Justice, &c.

D

But

But if you find Bribery or Corruption then come boldly; but beware of the Justice of your Cause.

First, therefore, in his Majesty's Opinion, a Man may be wronged in a Court of Justice.

Secondly, In that Case, his Majesty is not only willing to receive a Complaint, but to reform what is amiss: So that his Majesty publishing thus much to all his Subjects, I hope your Lordships will not conceive that barely to complain, is a Fault, especially seeing that his Majesty saith, ' Why do you spare to complain? '

The second Part of my Accusation is, because I have used unreverend and bitter Terms.

First, I divide the Collections objected against me, into two Parts.

First, Into two Sentences, which Mr. Attorney hath endeavoured on the Lord Chancellor by inference.

Secondly, Into Words, applied to his Lordship.

*My Lords*, Touching the first, I hope general Speeches shall have no such Construction.

In the 116th Psalm, the Prophet saith of himself; *I have said in my Fury, all Men are Lyars.* And in the 14th Psalm, it is said of all Men, *They have all gone out of the way, and are become abominable; there is none that doth good,*

*good, no not one.* And in the Epistle to the Romans, it is said, *Let God be just, and all Men Lyars.* And again it is said in Scripture, *That the Poison of Asps is under their Lips, that their Throats were open Sepulchres.* And yet it was never heard, that any of the Prophets and Apostles (godly Men) found fault with David saying, *You have said my Throat is an open Sepulchre, that I am a Lyar, and abominable,* because they were but general Speeches. And therefore, *my Lords,* I humbly pray, that my general Speeches may not be applied to my Lord Chancellor, for I had no such Meaning.

For particular Words, they are, as I take it, these; Unsoundness of his Lordship's Actions, unjust Proceedings, Oppressions, and Injustice.

Now, *my Lords,* I must again fly to the King for Succour, in these Words: for his Majesty points forth the Things for which a Subject may complain.

For his Majesty saith in his Book, 'If a Man be wronged in Course of Justice.' Now to be wronged in Justice, what is it but Injustice?

Secondly, His Majesty saith, that if one find Bribery, Corruption, Injustice, &c. and then we should come boldly.

First, For the Word Injustice: He that proves the Justice of his Cause, proves the Judgment given against it Injustice: For,

*my Lords*, I conceive, under your Lordships Favour, that this very Word contains all the rest, and that all other Words that I have used, are but Synonymies unto this ; and I used them all, yea all, I protest, to avoid Tautology, and to avoid always the using of the same Word Injustice.

And that also which urged me to use it, was Necessity. And that a two-fold Necessity : First, for that I particularly accused his Lordship of Injustice, I was out of hope ever to obtain a Hearing of his Majesty.

Secondly, My Misery inforced me unto it : And therefore it may please your Lordships to understand, that in my first Petition to his Majesty, there was no such Word as Injustice, or that tended near unto it : but only it did set forth what the then Master of the Rolls, this Lord, and the last Lord Chancellor had done ; and desired his Majesty to judge, whether the last Lord Chancellor, or the now Lord Keeper, had most justly distributed Justice. It pleased his Majesty to give answer, ' That he would take ' some other Course, when he came near ' *London*.'

When his Majesty came to *Theobalds*, I framed two other Petitions, and deliver'd the one to his Majesty, and the other to Secretary *Wynwood*; and in neither of these Petitions was there mention of Injustice, or a Word favouring of it.

And

And when I besought his Majesty, at that Time, to hear the Cause, or to refer the Examination, he gave me this Answer: 'If myself, and the Lords should trouble themselves about the hearing of Sentences, no other Busineses would be done by us, for every Man would be ready to complain.'

And thus I had fallen off, but that his Majesty said further unto me, 'Will you charge my Lord Chancellor of Injustice, or Bribery?' I blanch'd the Matter again, and desired his Majesty he would be pleased to grant me an Hearing of the Cause.

After which, when I had meditated again of his Majesty's Question, I found great Coherence between this Question and the Words in his Majesty's Book, and thereupon was bold to use the Word Injustice. Unto which his Majesty was pleased to answer, 'These Accusations are too common: But I will have Relation of the Cause from my Lord himself.'

After all this, understanding that the Lord Chancellor had endeavour'd to answer this Matter unto his Majesty, and to this end had produced the Master of the Rolls *Phillips* his Report; which, I confess, taken by itself, may not only satisfy the Lord Chancellor, but the King himself, or any Man else living: And therefore, fearing that my Lord endeavour'd to satisfy the King with that Report, I saw there was no other Course,

Course but to give an Answer unto it, which I could not do without the Book. In making whereof, something was requir'd, both before and after, which drew me to make the Epistle and the Epilogue.

In the making whereof, I muster'd together all my Miseries; I saw my Land taken away, which had been before established unto me; and after six-and-forty Orders, and twelve Reports, made in the Cause, nay, after Motions, Hearings, and Rehearings, Fourscore in Number, I beheld all overthrown in a Moment, and all overthrown without a new Bill preferred. I discerned the Representation of a Prison gaping for me, in which I must from thenceforth spend all the Days of my Life without Release: for in this Suit I have almost spent 3000*l*. and many of my Friends were engaged for me, some damnified, others undone, and with this, did accompany many eminent Miseries, likely to ensue upon me, my Wife and four Children, the eldest of which, being but five Years old; so that we, that did every Day formerly give Bread to others, must now beg Bread of others, or else starve, which is the miserablest of all Deaths, and there being no Means to move his Majesty to hear the Cause, but to accuse his Lordship of Injustice: These, and all these moved me to be sharp and bitter, and to use Words, though dangerous in themselves.

selves, yet I hope pardonable in such Extremities.

And now I hope, if this will not acquit me, yet your Honours will be pleased to move the King, for his Gracious Pardon: For Misery made patient *Job* break out and swell against God himself; and therefore, my Lords, how much more may it make me so compleatly miserable, to swell and transgress against Man!

And if, my good Lords, you shou'd hear all the Passages of the Cause, I hope I shou'd the better conceive your Lordships will not be troubled with it; and Mr. Attorney hath already set it forth in that fashion, as it makes much against me. But if your Lordships shall vouchsafe me that Favour, I hope I shall alter, or at least extenuate your Lordships Opinions in the Cause.

In the Year 1606, I preferred a Bill in Chancery against *Edward Fisher*, for defrauding me of a Lease of sixty Years: *Fisher* answers the Trust, and preferred another Bill against me for Debts; both Bills came to be heard before *Kingliffe*: *Fisher* offer'd to purchase the Lease, and the Debts were referred to two Masters. These took great pains concerning the Debts, after which, the Lord Chancellor refers the whole Business to those two Masters of the Chancery, and then having examin'd both Trust and Debts, they report the Trust proved

proved; and for the Debts, they think fit that I shou'd give *Fisher* 2000 Marks, whereof, 500 Marks were for Damages. *Fisher* not satisfied, moves my Lord Chancellor to hear the Cause himself, and this was in 1608; and my Lord, upon an hearing, decreed, with the Consent of *Fisher* and his Counsel, that he shou'd assure the Land, and I pay 2000 Marks within six Months.

After this, my Lord having made this Decree by Consent, I served *Fisher* with it; but his Contempt was such, that after three Commissions of Rebellion, I was enforc'd to take a Serjeant at Arms to attach him, and had a Commission awarded to the Sheriff of *Norfolk*, to put me in Possession.

*Fisher* perceived that the hiding of his Head cou'd not keep me from having Possession of the Land; takes another Course by fraudulent Conveyances between him and his Brother, and others; and in a Motion made in the Name of Sir *Thomas Challenor*, (for they lodge the fast Interest in him) they inform that this Conveyance was before my Bill exhibited, and therefore desire I might be put out of Possession; and so it was order'd, that the Possession shou'd remain then as it was.

Then I, to discover those Frauds, preferred a new Bill against *Fisher* the Deceiver, and three others. They in their Answer set forth Matter sufficient to shew the Fraud:

For

For Sir *Thomas* faith, that this Conveyance from Sir *Edward* his Brother, was made and sealed when he never thought of it, that 1700 *l.* was to be paid; but yet he never saw the Land, he never bargain'd or condition'd for it, but hearing the Trouble of it, assur'd it to *Richard* the younger Son of *Fisher* the Deceiver; and so because he was unable to go on in the Purchase, he lodg'd it in the Hands of Sir *Thomas Challenor*.

*Hubbert*, Attorney, informs my Lord Chancellor of these Frauds; my Lord gave them a Day, to shew Cause why I should not have the Land till they cou'd make better Proofs. Then those Witnesses, which were both *Fisher's* Men, were examined by my Lord Chancellor in open Court, and one of 'em swears that the Conveyance, which must defeat the Decree, was sealed in the Hall; the other swears it was done in the Parlour, and that it was read, the other that it was not read: the one that it was signed, the other that it was not signed: one swears that Sir *Edward Fisher* was present, the other not present, and both that it was done at such a Time, when the Deed bore Date twelve Months after.

Then what remains after all this, but that I shou'd have a Confirmation of the old Decree, but I find it true, *Nemo laeditur nisi à seipso*. For then the Lord Chancellor

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made

made a Motion, that *Fisher* shou'd buy the Land; against which, I not gainsaying, his Lordship referr'd the Mediation of the Bargain to the Master of the Rolls, where it appear'd that Sir *Edward Fisher* had made a Lease of half the Land for 200*l.* the Year, and therefore it was agreed, that *Fisher* shou'd give 2400*l.* out of the which, he was to deduct 2000 Marks for his Debts, due by the first Decree, and the Residue about 1066*l.* I received, because it did not appear what the Lands were worth. A Commission was awarded out to Sir *L'Estrange Mordant* and three others, to find out the true Value of the Land, and a Bargain was not commanded, but propounded by the Court: And I beseech your Lordships to observe, that the Master of the Rolls being to consider of all the Examinations, lawfully taken in the Cause, nine Witnesses were taken by the Commission and duly examin'd; five Witnesses more were examin'd in the Examiners Office, without my Privy or Consent, and contrary to an Order in Court: which Witnesses being examin'd, swore point blank in all Things, and according to those Proofs, the Master of the Rolls made his Certificate, and found 200*l.* a Year, to be as much as the Lands were worth.

Hereupon, the Lord Chancellor gave Day to shew Cause, why the Cause shou'd  
not

not be decreed, which was the Order,  
*quarto Maij, 1610.*

After this, the Lord *Hubbert* then Attorney, in the Presence of the Master of the Rolls, himself, did set down the Defects of his own Report.

*Lord Treasurer.* My Lords, this is contrary to all Course, this must not be, for we mean not to enter into the Merit of the Cause.

*Mr. Attorney Telverton.* *Mr. Wraynham*, for you to shift it off, doth but aggravate your Offence, for when you say you used the rest of your Phrases as *Synonymies* to Injustice, it implyeth a Taxation of his Lordship in point of Justice; and so likewise do your Words imply, when you say, by the greatness of his Wit and Eloquence, he doth palliate the Justice of the Cause; therefore, tax my Lord particularly with one Point of Injustice. Here *Mr. Wraynham* wou'd not instance in any one Particular.

*Wraynham.* Had I thought his Majesty wou'd not have heard my Cause, I wou'd have sat down in Silence, and have devour'd my Sorrow: I have formerly set down to your Lordships, that my Decree was reversed without a Bill.

*Mr. Attorney.* That is, whereas the Bill is absolute and constant, for there it must have a Bill of Revivor; but when it depends upon subsequent Acts, and is qualify'd and conditional, there it may be reversed without Bill.

*Wraynham.* I humbly submit in all Things to your honourable and clement Censure; for the Manner, I beseech your Lordships Pardon; and for the Matter, I humbly crave Compassion.

*Mr. Serjeant Crowe.* May it please your Lordships, the Prisoner at the Bar hath made a good Submission at the last, I wou'd he had began with it.

My Lords, the Flux of foul Mouths must be stopp'd, otherwise the greatest Magistrates will be traduced and slandered to his Majesty himself; and though it be not Treason, yet I have heard it from a great and honourable Person sitting in this Place, that it is, *Crimen lese Majestatis*.

My Lords, for the two Lords, the one that lives, the other that is dead, and their Demeanor in this Case, in honour of him that is dead, and without flattery to him that is alive; I say, they both judged according to their Consciences.

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The Lord Chancellor that is dead, gave his Judgement according to his Conscience, and not according to the Conscience of another Man, but according to the Integrity of his own Heart ; for Judges are to judge *secundum æquum et bonum in foro conscientie*. And this Lord also judged out of his noble Conscience and Integrity of his Heart ; for, my Lords there was no binding Decree.

As for the Merits of the Cause, it must not be examined of the one Side, or of the other, for both Lords have done according to Conscience, *coram deo et hominibus*. And each hath delivered his own Sense according to his Conscience.

The Lord which is dead, when he was alive, was one of the Oracles of the Wisdom of the Time ; and my living Lord attributes very much unto him, whom God hath also enriched with great Ornaments of Nature, for no Man, no Magistrate, hears with more Attention, nor no Magistrate of Justice attends with more Understanding and Patience.

You then, Mr. *Wraynham*, thus to traduce my Lord, is a foul Offence, with that black Mouth of yours ; you cannot traduce him of Corruption, for thanks be to God he hath always despised Riches, and set Honour and Justice before his Eyes ; and where the Magistrate

gistrate bribes, it is a Sign of corrupted Estate of Justice of the Cause.

My Lords, I was of Counsel with *Fisher*, and I knew the Merits of the Cause, for my Lord Chancellor seeing what Recompence *Fisher* ought in Justice to have received, and finding a Disability in *Wraynham* to perform it, was inforc'd to take the Land from *Wraynham* to give it to *Fisher*, which is hardly of value to satisfy *Fisher's* true Debt and Damages: And this, my Lords, was the true Course of it, so it stands upon these Parts your Lordships have heard.

I am glad at last, to hear Mr. *Wraynham's* Submission, and do humbly crave your Lordships Censure.

Sir *Edward Cooke*. The Cause before you, my Lords, is a very great Cause, for a Man must tread in this Course, upon a very slender Bridge; I will single out, as near as I can, the State of the Question, and then I will shew you in others, upon what Words, and on that I shall ground my Sentence: For a Complaint to the King's Majesty, or a Petition by any Man that thinks himself wrong'd, I hold that regularly to be no Offence. God forbid it shou'd be so, I can make no Hedge between the Sovereign and the Subject; nay, in some Kingdoms, *Quere-  
relas subditorum detrabere in principe deferentur  
capitale est*: And it wou'd be a Derogation  
from

from a Monarch, that no Subject shou'd complain unto him ; yet upon the Statute of *Westminster*, and at Common Law, I make no question but to shew you, that where Petitions were made to the King in an unfit Manner, they have been severely punished. Our Case is now particularly in a Sentence given by my Lord Chancellor, an ancient Judge in this Court, and a sole Judge in the highest Court of Equity that is in this Kingdom ; yea, this Cause is after Sentence, and against the Sentence, and with many scandalous and opprobrious Terms against so high a Judge ; and that not in Paper, but in a Book presented to the King ; this Book in my Hand, which the King hath deliver'd to the Attorney-General, that it might come before us for due Punishment. Whether this Book be Justifiable or no ? that is the Question.

It is a black Book, *Est jam conveniens luctuosus iste color*. And it is a strange Book for some Things that I will shew you, for it is no Petition ; and yet I will confirm every Word I say, by ancient and modern Authority, whereof, I am sorry, very sorry in good Faith, for the excellent and worthy Parts that are in you, Mr. *Wraynham*: Now mark your own Words in your Book, you call it a Review, or Revivor of the Report of the Master of the Rolls, *Phillips*, and the Decree of my Lord Chancellor ; the high  
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Commissioners have sometimes a Commission of Review, but it is very rare, and that is a Commission of Grace, not of Right; such a Review is presented to his Majesty by *Wraynham*, in which he deals not like a Petitioner, but like a Censurer, censuring every Man that deals in the Cause.

Mark how the Common Law sets out a Petitioner: It gives no ill Words, it taxeth not Men of Injustice; for take this from me, that what Grief soever a Man hath, ill Words work no good, and learned Counsel never use 'em.

And therefore, the Petitioner at the Common Law, is, *Si placet vestrae majestati*, &c. & *quod justitia & rectum fiat*, &c. Now in your Petition, see whether you have behaved yourself well: First you make your Major Proposition; The unjust Censure of a Judge, is far worse than a particular Murderer: Then your Minor is, That my Lord Chancellor hath satisfied his Majesty, that I have informed him falsely; but your Majesty knoweth that he that judgeth unjustly, must, to maintain it, speak untruly; and that your Lordships and all Logicians know, the common Conclusion followeth necessarily.

First, He chargeth my Lord Chancellor with Injustice, not complaining of any Particular to be referred to Examination: But saith in general, 'He hath done unjustly,

' and

and is worse than a Murtherer, and that he hath informed the King falsely.'

*My Lords*, You know, if a Man put false Metal into the King's Coin, it is Treason; and if my Lord Chancellor shall infuse Poison and false Information into the King's Ear, it was an heinous Offence. Yet, this contents not *Wraynham*; but he flieth at all, saying, 'That the Height of Authority maketh Men to presume.' And hath a Place of Scripture in his Book, *Woe be to them that write wicked Decrees!* And in another place, he saith, 'Oppression is palliated with Wit and Eloquence.'

*My Lords*, These Things to be in a Petitioner, is most intolerable; for a Petitioner must go meekly and humbly to work, without shew of touch of any Man.

I will not omit a dead Man; for, tho' spoken of him, it is a living Fault.

As for this Master of the Rolls, never Man in *England* was more excellent for the Chancery; and for ought I hear, (that had reason to hear something of him) I never heard him taxed of Corruption, being a Man of excellent Dexterity, diligent, early in the Morning, ready to do Justice: for him to be taxed in such a huge degree, as to omit some of the material Proofs, to shift off others, to wrest the Equity of the Cause, and such like: And in another place, 'That the Master of the Rolls made an unjust

‘and corrupt Gloss upon a false Text, &c.’ And in another place, he saith, ‘That Sir Edward Phillips’s Report was raised *ab inferno.*’

My Lords, You know that the Slander of a dead Man is punishable in this Court, as *Lewis Pickering* is able to tell you, whom I caused here to be censured for a Slander against an Archbishop that is dead; for Justice lives, though the Party be dead; and such Slanders do wrong the living Posterity and Alliance of the Man deceased.

But Mr. *Wraynham* spares not the King himself; for in one place of his Book, he saith, *assurgat Rex*, &c. as if the King slept. And in another place, he saith, ‘That the Decree is reversed without Precedent.’ But this is not so, as I will satisfy you anon.

For Mr. *Wraynham*’s Censure, I will never judge a Man without Authority and Reason, 18 E. 1. in *Rotulo Parliament.* 3. my Lord Abbot there complained, that *Solomon of Wragg*, and *Hugh Courtney* then Chief Justice, had confederated to give Judgment against the Abbot. And the King answered, ‘Shall we, upon this Petition, call a Judgment in question?’ And in the end, the Answer is, *Regem rogabit, & aliter facere non potest per Legem terræ.* And my Lord Abbot, because he was a Lord, escaped Punishment at that Time.

Another Precedent I will shew you, is, *Mich. 18 E. 3. Rot. 151. coram Rege. Thomas Wilbrham* petitioned against the *Justices* of the *King's-Bench*, 'That they had not done according to Law and Reason.' And the Petition was delivered to the representative Body of the King and his Council; for the which the said *Wilbrham* was indicted, convicted, fined, and ransomed in the *King's-Bench*.

19 *Aff. p. 3.* Between Sir *William Scott* and *Humph. Hunney*, who complain'd to King *E. 3.* 'That Sir *William Scott*, Chief Justice, had awarded an Affize contrary to Law.' And the King sent it to the Judges; whereupon *Hunney* was imprisoned, judged, fined, and ransomed: yet he had no Remedy, but in Parliament.

The Statute hath made a sharp Law against such as speak scandalous News of the Chancellor, Justice of the *King's-Bench*, &c. And because divers were punished for Slanders, in Petitions to his Majesty; therefore, 13 *R. 2. Rot. Parl. numb. 45.* the Commons desired they might not be troubled for any Matter that should be contained in Petitions to the King: And the King answered, 'Let every Man complain, so it be with Law and Reason.'

*Wraynham* objected a Place of Scripture for himself, where the Psalmist saith, *I have said in my Fury all Men are Lyars.* The Text

is, *Dixi in excessu*: So *Wraynham* said, 'It was not in his Fury, but in his Excess.'

And another thing that *Wraynham* offered in his Defence, was the King's Words, where he saith, in his Book, *Be bold to complain*. But of what? of Corruption? So likewise in *Rot. Parl.* 24 E. 3. *Parl.* 3. numb. 16. If any Man mix Corruption with his Censure, *Anathema sit*. So likewise it is extant in the Rolls of the Parliament, that the Great *de la Pole* was convicted of Bribery, and put from his Place; and Cardinal *Woolsey* was convicted of a foul Corruption.

But if a Man, according to Sincerity, give Judgment, though he differ from another Judge, this is no Injustice. Famous *Dyer* gave Judgment in the *Common-Pleas*, and this was reversed in the *King's-Bench*; yet he discharged his Conscience: And altho' it was reversed afterwards, yet it was no Injustice. The like Instance might be made of Sir *Christopher Wray*, and others. Now, in this Case, my Lord Chancellor that is living, differs from the Lord Chancellor that is dead. This is not strange, it ever hath been, and ever will be; but if a Judge's Conscience be oiled, and moisten'd with Corruption, then all is vanish'd.

The King hath the Pleas of the Crown, and upon every Judgment, one of the Parties is angry and displeased: But this must not presently produce a new Hearing, for that

that will hinder all other Businefs. I will put you a great Case between a Nobleman here, and divers other Noblemen that were trusted by the Countess of *Southampton*, who were all Plaintiffs, and Sir *Moyle Finch* Defendant : And this was, *Mich. 42, 45 Eliz.* The main Point that was controverted in the Cause, was upon an Exception of a Manor (as I remember) in the *Habendi* of the Deed, which my Lord Chancellor then thought void. And therefore decreed, 'That the Lady of *Southampton* should have all.' Whereupon Sir *Moyle Finch* petitioned Queen *Elizabeth*, that she should refer the Examination of the Decree to some of the Judges ; but the Queen would never refer any thing to those that were named unto her, but she referred it to two of her Judges not named in the Petition, who attended my Lord Chancellor ; and they then resolved against the Decree, and my Lord reversed his own Decree.

I know I have held your Lordships long ; yet I cannot tell, in these critical Days, whether Men will be satisfied, which made me longer than I would have been. Therefore, to conclude, I agree, in all things, with the Sentence given in *Foorth's Case* of 2 Jac.

Sir *Folke Grevill*, Chancellor of the Exchequer. This Court hath no Intent to discourage the meanest Subject of his lawful

ful Appeal unto his Prince ; for that were to disinherit the People of Law, and the King of the Intelligence of the Oppression that might fall upon his People.

But this Case I suppose not to be within the first. The Matter in such Cases, is but a Review of an inferiour Sentence in a superiour Magistrate, my Lord Chancellor of *England*: And that before he be heard, making the King his speedy Executioner.

But examine the Nature of these Accusations, and you shall find them mere Scandals, and Impossibilities ; as breaking of Decrees, rewarding Frauds and Perjuries, palliating Oppressions with Greatness, Wit, and Eloquence.

Why, *my Lords*, if this Liberty should spread, then I desire the indifferent Hearers to see in what a miserable Case the Subject stands, when the Right of every Man shall stand in the Malignity, and unquiet Nature of every turbulent Spirit? And, my Lords the Judges, in what a Case stand they, if by such Clamours every Delinquent shall be made a Judge over them? And what Privilege shall the King my Master have? For if this Humour should take a little head, will it not carry both him and Justice into the Field? And therefore I conclude, that this is severely to be punished ; and is not a Petition, but a presumptuous Challenge, and of so far a worse Nature beyond Duels,

as Honour and universal Justice is beyond particular Right? And therefore I agree with him that went before me, leaving all his good Parts to Mercy, and his ill Parts to the Censure of *Fourth's* Case.

Lord Chief Baron, Sir *Laurence Tanfield*. This Cause is a Cause of a high Nature, being a Scandal of a Great and Princely Officer of the Kingdom, and of one that is an High and Eminent Person: Which Scandal is set forth in this Book, which certainly I cannot call a Petition; for the Petitioner hath presumed too far, that it is a plain Revise of a Decree. Every Man knoweth, that the Chancellor hath the keeping of the great Seal, whereby is managed Mercy and Justice: And if this great Person so trusted shall be thus traduced by every Offender, how insufferable will this Mischief be?

I doubt not but that by a right way, you may, by a Petition in an humble Course, and submissive Manner, desire his Majesty that he would be pleased to review a Sentence in Chancery, or else grant a Commission to others to review the same. But doth this Man observe this Course? No; but he will be his own Judge, sentencing his own Cause. I can call this Book no better, than a scandalous and malicious Invective against the Lord Chancellor; and that not without many bitter Invectives, as I have heard.

First,

First, He taxeth him with Injustice: Then mark the Circumstances; he saith ‘ My Lord Chancellor hath reversed the Decree, without Cause, without new Matter, without legal Proceedings, without Precedent, and upon a bare Suggestion.’

Then he goeth further, saying, ‘ Injustice is worse than Murder; for this Decree hath devoured him, and his whole Family.’

And, not content with this, chargeth him with Oppression, and palliating it with Greatness, Wit, and Eloquence; than which, a greater and heavier Scandal cannot be!

You shall not be barred of Access to his Majesty; but that by a Petition, you may desire to have a Decree reviewed, and that his Majesty would grant a Commission to review it. But these things must be done legally, and then the Law protects us, tho’ it be against a Nobleman. Sir *Richard Croft* did sue an Action for Forgery of false Deeds against the Lord *Beauchamp*; whereupon my Lord *Beauchamp* sued an Action upon the Statute *de Scand. Magnat.* But that would bear no Action, because it was done legally: For a Man may suppose in his Writ such a Fact, by the Use of the said Writ; but he must beware that he prove it well, or else he shall be well fined in the same Court. But much more shall he deserve a Fine, if he shall do it without Writ, or without Ground or Proof, as *Wraynham* hath done.

And

And therefore, because I must be short, I think him worthy of the Censure before given, in all Points.

Lord *Hubbert*, Chief Justice of the Common Pleas. Mr. Attorney hath very worthily and like himself, according to his Place, brought this Man into this Court, to give Answer for the greatest, and most outrageous Offence, that of this Kind hath been committed; in which Case, I will first tell you, what I do not question, and then what I do question.

For the first, Petitions may be exhibited to the King without controversy, nay, in some Cases they must be exhibited; and God forbid, that any Man's Way shou'd be lock'd up, or that any Subject shou'd be barred of Access to his Majesty; for when Appeals fail, and when ordinary Remedy is wanting, so that there is no Judge above the high Judge; yet, you may still resort unto your Sovereign for extreme Remedy: This is proper to a King, *Cessas regnare, si cessas judicare*; for it is an inherent Quality to his Crown. So that without controversy a Man may petition against a Sentence, for God forbid, that we that are Judges, shou'd draw that Privilege to ourselves, to give Sentence, and not to hear it examin'd. But it is true, it must be presented as a Supplication, and you must go formally to work:

ordinarily you must go to the proper Courts of Justice; if that fail, the extraordinary Course is open by the King: and this is no more than to shew to his Majesty, how you find yourself grieved, and then remit the Cause and Form to the King's Wisdom.

But now see what this Man hath done, he hath made neither the Matter nor Form of a Petition.

For as to Matter, he pretends, that is not saying that my Lord Chancellor hath expressly infringed two Decrees, when he hath done nothing only crossed an Order, than which, there is nothing more common, for they are but interlocutory, and not definitive.

And for Form, there is no Petition, no Book, as he wou'd call it, but an express peremptory and audacious Libel. Then the Manner offends yet more: For whereas, a Supplication imports, that a Man shou'd speak it upon his Knees, for as it is in some Realms, Men attempt nothing against Law, but they must do it with a Rope about their Necks; so that he that goeth about to attempt any thing against a Decree, he doth it with a Rope of the King's Censure about his Neck: But mark the Carriage of this Man, how insolently he proceeds in this Case!

First, for the King, as he hath been well observed, he saith, *assurgat Rex*; as if he shou'd

thou'd bid the King arise and take Revenge.

Therefore for the Decree, he saith, that the Foundation of it came from Hell ; if that be so, then this Sentence must needs be hellish, when he falls upon a poor Man, the Master of the Rolls: I call him poor, because he is not living to answer for himself, but yet he was a worthy Minister of Justice, (for I had much cause to know him) and he was of as much Dexterity and Integrity, as ever Man that sat in his Place, and I believe the Chancery will find want of such a Man. But not content with this, he scorns my Lord Chancellor's Courtesies, and carries himself, as if he wou'd trample all under foot.

So much for the Manner : As for the Matter, it is odious ; the Person with whom he hath to do, is the principal Officer and Magistrate of Justice in the Kingdom, one that hath the Nomination of all the Justices of Peace, and names all the Sheriffs ; one that keeps and carries the Seal, and sits chief Judge in this Court, and sole Judge in the Chancery.

And shall we think that this Man is bought and sold to Corruption, to Injustice, to Murder ? What more tends to the King's dishonour, than that he shou'd place for Judicature such a worthy Man ? A Man infinitely the more wrong'd, because he deserves his Place,

as well as any Man that went before him; and yet his last Predecessor was very excellent, and deserv'd no small Commendations. But *Wraynham* I condemn, as a Man barbarous both towards the Living and the Dead; wherefore, there is a Justice and Tribute due to the Master of the Rolls deceased. I wou'd have mention made of it in the Decree, and with addition to the Sentence. I concur in all Things with the President of the Court.

Sir *Edward Montague*, Lord Chief Justice. My Lords, it is a true Saying, *Judicium non redditur nisi in invitum*. For I yet, never saw any Man sit down satisfied with a Sentence that went against him.

I wou'd not so far have blamed *Wraynham*, as to have censur'd him for complaining to the King; yet this Restraint I find in Law, which any Man may see in King *Edgar's* Laws. 'Let no Man complain to the King 'in Matters of Variance, except he can-  
'not have Right at home, or that Right  
'be too heavy for him. But if that Right  
'be too heavy for him, then let him  
'complain to the King.' Whereby it is meant, that if the Laws be so strict, he shall complain in a Court of Equity to the King himself. Then, to complain to the King, is not deny'd to any Man, for all Justice comes from the King, and though he distributes  
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his Justice to be ministred in several Courts, yet the primitive Power resides still in his Person. Therefore, to the Justice of his Majesty, may any Person have resort; but this must be humble as a Petitioner, not as Mr. *Wraynham* hath done here, who is not a Suitor, but a Censurer; and doth not complain, but proudly rail upon a high Judge.

Can you, Mr. *Wraynham*, charge your Judge with Corruption, through Fear or Affection? (for I make them both alike) spare not the chief Judge nor highest Chancellor, I say, spare us not, whenever you can take us. But a Judgment is pronounced from the Sincerity of our Consciences, and warranted by our Judgments and Learning: Shall we then undergo the Censure of every Suitor? No State, at no Time, ever suffer'd this.

My Lords, it lies upon us Judges as a Duty, to restrain this Boldness; our Places, as Judges, give us no Privileges to do what we list, nor Suitors have no Liberty to speak what they list to Judges: God, and Order, hath set the Bounds to both.

For the Matter heretofore handled in the Chancery, it is not the Work of this Day to deal with that; we meddle not with your Decrees, we censure you only for your Scandal. I saw in your Book a smooth Pen, and  
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from your Tongue I have heard a fair Speech ; but in both I see a fiery Spirit.

For you wou'd raise up Dissension between the two Lord Keepers of the King's Conscience, one that now is, and him that was, and now is with God : Of these two Worthies I shall not say much, I will neither wrong the Dead, nor flatter the Living. The Matter of Difference, for any thing I can see, or you can say, is but an Order against an Order, wherein Judgment may be varied by Occasions, and through Circumstances ; true Attributes are no Flatteries.

This Honour let me give to these two great Men of great Parts ; better fitted for that Place, never sat in this Place : nay, a Man may truly say, that the World hath scarce yielded two such Men of so excellent Gifts, in the latter Age of the World.

But you, Mr. *Wraynham*, wronged both the Living and the Dead. Of the Master of the Rolls that is dead, you spake your Pleasure : But all that hear you, and know him, will be ready to give you the Lye. You say that he should omit some of the Proofs, and wrest some other-some, and ground himself upon Witnesses that swore Impossibilities, and Absurdities, &c. Who ever knew that Man, knows him to be a true Reporter, and a judicious Collector upon Proofs, as ever was. I will not dissemble  
what

what others thought a Fault in him, to be over-swift in judging: But this was the Error of his greater Experience, and riper Judgment, than others had.

Now, for my Lord Chancellor, by the Words you use, you lay *four* of the greatest Crimes upon him, that can be laid upon a Judge; Presumption, Oppression, Falsity, and Injustice: For you say, 'Height of Authority makes great Men presume:' There is Presumption and Oppression. And in these Words, '*He that judgeth unjustly, must, to maintain it, speak untruly*?' There you accuse him of Falsity and Injustice. And all these you utter with one Breath, charging him with all in one Sentence: For you say, 'That Height of Authority makes great Men presume:' There is Presumption and Oppression. And in these Words, '*He that judgeth unjustly, must, to maintain it, speak untruly*?' There you accuse him of Falsity and Injustice.

*Ex ore tuo te judicem.* For in your Book, you say, 'Let me suffer as a Traytor, if all that I say prove not an intire Truth, if I should dare to slander so great a Judge, to so wise a King.' Therefore, out of your own Mouth, I pronounce Sentence against you, *lesæ Majestatis*: And though not as a Traytor, yet a great Scandalizer. And if all were true that is said in your Book, yet would I censure you for your Quarrel with  
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my Lord Chancellor for Form, and yet yourself use no Form, no, not common Civility. So that if it were against a common Man, it were punishable, to offer such Words to the Eye of a King, as here you give to my Lord Chancellor, calling him a Rewarder of Frauds and Perjuries, an Afflicter of the Afflicted, a Racker of things out of joint, a Confounder of your Estate, and the like.

These are not Words fitting for a Petitioner, to be spoken of a Lord Chancellor, to be offered to a King.

And yet, *my Lords*, this Man's Fault goeth one Step higher, touching the Person of Majesty itself. I am a Judge of Crown-Matters; and in this Libel, I think, you have scandalized the King in four Things.

First, He saith 'The King is but a Man, 'and may err;' implying an Error in the King.

Secondly, 'That my Lord Chancellor sends himself by secret Means, and that 'you are not called to answer them.' With what greater Tax, to so high a Majesty, than to condemn, and not to hear!

Thirdly, 'That my Lord Chancellor doth 'cover his Injustice with Wit and Eloquence.' When we all know, that we have a Sovereign of those high and excellent Gifts, that it is not Rhetorick, or Eloquence, that can cast dust in the King's Eyes, or cause him any ways to turn aside from Justice.

Lastly,

Lastly, You say, 'That a Man may distaste Truth, and suspect Judgment;' applying it unto his Majesty. Which Offences reaching so high, my Censure shall be the heavier upon you.

Now it will rest, what shall be done with this Man? As I give my Sentence from his own Mouth, so I will take Advice from himself; he saith, *State viis antiquis*, look what our Ancestors have done of old, so let us do. In this then, you shall see what they did in like Cases.

*Mich. 13. of the Queen, Rot. 39. Henry Blauusford*, a Counsellor at Law, was committed to the *Fleet*, and fined, for false reporting the Opinion of the Lord of *Leicester*, and Secretary *Cecil*, with these Words, *Humanum est errare*.

So likewise, 19 *H. 8.* my Lord *Sturton* was committed by the Court, and fined, for saying these Words: 'I am sorry to see Rhetorick rule where Law should.'

Sir *Rowland Flaxing* was committed, and fined, for reporting to the King, 'That he could have no Indifferency before the Lords of the Council:' For which he was deeply fined 7 *Feb. 18 H. 8.*

So likewise, in the Time of *H. 7.* Sir *Richard Terret* was committed, fined, sent to the Pillory, and adjudged to lose both his Ears for his slanderous Complaint exhibited to the King in a written Book. And that

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against the Chief Justice *Fitz-James*; and the Punishment of him that depraved the good Judge Sir *James Dyer*, is fresh in memory.

So that Party that said Judge *Catlyne* was an unjust Judge, 8 *Eliz. Rot. 10.* whose Name was *Thomas West*, of *London*, who was indicted in the *King's-Bench* for this, as for an Offence against the Common Law. His Words that were deliver'd, were these: 'My Lord Chief Justice *Catlyne* is incensed against me, I cannot have Justice, nor can be heard; for that Court now is made a Court of Conscience.' This Indictment was found, and the Record was, that it was *in magn. contempt. Dnæ Reginæ ac cur' sue, ac in magn. scandalum, ac ignominiam legis Angliæ, ac in scandalum capitalis Just. ac in malum exemplum omnium subditorum.*

So that it is that this Offence of *Wraynham's* is against the Law, the Commonwealth, and the Justice of the Kingdom; and therefore, according to the last Judgment in Law, and with the Sentence that was pronounced against *Foorth*, I concur and pronounce the same against *Wraynham* in all things. And this Right I would have done to the Lord Chancellor, and Master of the Rolls, that are dead, that those things be fitly exprest to their Honours, in the drawing up of the Decree.

Sir *Thomas Lake*, Principal Secretary. *My Lords*, If I had been the first that had spoken in this Case, I should have thought it the greatest Difficulty how to walk evenly between the not discouraging the King's Subject, and in judging the Prisoner at the Bar.

But for that, my Lords before me have so well spoken, that no Man may be discouraged to come to his Majesty in a discreet manner. And very good Learning hath been deliver'd by all the Lords, such as may satisfy every Man; yea, and not satisfy only, but to direct them what to do in such Cases: therefore I may be the shorter.

I will not be long in speaking of the Honour due unto Magistrates; he that wades into that, shall have a little of his own Invention: nor of the Offence that is now before us; for the King's Counsel hath so fully and perfectly delivered it, that perhaps by this time, he knows his own Error. And my Lords the Judges have made it appear so, whereby I think it so great an Offence, as ever was in this nature: and much more deserveth Punishment, because it is against a Man no less eminent in Virtue, than in Place.

Three Things the Prisoner urgeth for himself.

First, For the Word Injustice, he saith, 'That admitting the thing were unjust, then he might call it unjust.'

But I say, for a private Man to call a publick Sentence Injustice, herein he sheweth his Error.

Secondly, He urgeth, that it causeth a great Loss unto him, and therefore he would be the rather excused.

It is true, I think that Men, by Sentence, have Loss, for *Judicium redditur in invitum*; but tho' it be a Loss, it is *Damnum absque injuria*.

Thirdly, He went the wiser way, when he urgeth Commiseration to us. And, for my own part, I would commiserate the Man, but I commiserate the Commonwealth much more; for if this should be suffer'd, Tumults, and a Multitude of other Inconveniencies would arise. And therefore I judge him, as the rest have done before me.

Sir Henry Cary, Mr. Comptroller. My Lords before me have spoken so much, that I shall not need to speak, neither shall I make any Scruple of the said Sentence.

When I consider how foully this Man hath behaved himself, in Scandals and Invectives against so high a Magistrate, I must concur with the rest of my Lords that have gone before me.

Bishop of Ely, Dr. Lancelot Andrews. That the Ground of the Complaint had been just yet I believe, my Lords the Judges, that the  
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Complaint being in so foul a manner, against so great a Person, in so high a Place, deserves sharp Punishment: And therefore I agree with the former Censure.

Bishop of *London*, Dr. *John King*. I shall borrow a Phrase of him, though spoken to another Purpose: 'That in a Senate, where many Assistants were, after two or three have well spoken, and well agitated a Cause, there is required nothing of the rest, but their Assent.'

It is a worthy Saying, but when I find here before me an honourable Person, foully and despightfully spoken against, being one of the three vital Parts of this Court, and without which, it cannot have its Subsistence, and of the three vital Parts the Principal, and also a Judge of another Court: And, (as I learned of my Lords the Judges) of such a temporal Court, where if the Edge of the Law be too keen, the Equity of the Chancery doth abate it:

In regard of this Duty, it becometh me to speak, and because the Party wrong'd is a great Counsellor and Officer of State.

The first Thing I lay hold of, is this, *interest reipublicæ*, it stands not with the Honour of the King, with the Peace and Safety of the Kingdom, nor with the Quiet of his Majesty, that Counsellors of State, and Judges in the Seat of Justice and Conscience,

science, shou'd be depraved, *anima & vita regnorum authoritas*, take it away from the Magistrate of State, take it away from the King himself, & *subversa jacet pristina sedes soliorum*.

For the Place wherein this honourable Person sits, is great, between Blood and Blood, Plea and Plea, and Plague and Plague, for the Judge shall end the Controversy.

So that the first Lesson which I shall make, is that which *Cambyfes* made to another, *memento ex quo loco*, they sit in God's Seat, and execute his, and not their own Judgments: It is their Art, their Faculty, their Profession, their Learning to judge, and it is not open to every Man, but it is *peregrina & unusquisque in arte sua artifex*; and therefore, for mine own Part, I shall ever bend the best of my Thoughts, the favourablest of my Wishes, and the most of my Prayers, that sitting in Seats as they do, they may judge as they ought.

I know, that whilst they carry Flesh about 'em, their Faculties and Judgment will be imperfect; they are but Men, & *scientia juris infinita*: so that I know not (amongst the Number of mortal Wights) that Man can conceive every Particular of the Law.

No Marvel then, if one Judge differ from another, when the same Man differs from himself; *Socrates puer differt à Socrate sene*. And though the Judges walk not in the same Way

Way, they tend to the same End; and though there be not *idem cursus*, yet there is the same, *idem portus*, & non mutant, sed aptant legem, according as the Matter comes before them is varied, shaped, and fashioned.

It is unreasonable then to complain of a Judge, or unusual to go to the King with Complaints, nay, it must be done, *calamo & atramento temperato*; and it must be done, *libello supplici, non famoso*, not as a Sycophant and Slanderer, but as a Supplicant with a Petition; not with a petulant invective Declamation against a Person of so great and honourable a Place. This is a Fact so unnatural, and so unlawful, that all Laws are broke both of God and Nations, and Civility, and good Manners, and all; nay, I know not how the Laws of Speech are kept, they are but three, *quid de quo cuique*, the Matter foul spoken of so honourable a Person, and so so transcendent a Magistrate.

Wraynham is a Man, that did not only curse in the Bitterness of his Soul, but he comes in *Amaritudine linguæ & chartæ*. It is not fit, God gives no Blessing to these Histries and Porcupine Quills: It shoots far, it enters deep, it wounds sore, it is not to be tolerated!

Let him keep his Poison in his Sarmaculo, and Invidious Book.

Wherein, let me add for my last, the Manner of presenting it, the Writing itself; and then

then withal the Defence now made, which, when I heard it, I was more offended than with the Book itself; and I may justly make a Question, Whether, he were more foolish in writing it, or more vain in defending it?

His Defence is a two-fold Necessity, First, a Necessity to induce the King to hear him; like *Absalom*, that wou'd needs set *Tobias's* Fields on fire, to get his Ear.

The other, a Necessity of Estate, proceeding out of the Laws of Necessity; *Gravissima sunt morsus irritata necessitatis*: one Part of Speech was general; in that, he meant not my Lord Chancellor; but in the general there is a Major, and in the Particular there is the Appellation; and then, every Man can make the Conclusion, as hath been well observed by Sir *Edward Cooke*.

You are a Man of a private and profane Spirit, and if you know not of what Spirit you are, I can teach you; I say, of that Spirit, that you compare yourself with the Apostles and Prophets, and you misapply Scripture, your *dixi in excessu & trepidatione*, sheweth a Difference between Fume upon Passion, and Deliberation. It comes fully home into your own Bosom, & *pulchrum patet guttur in ore*.

The best Part of this Answer, was the last, and I wou'd it had been all in all, and so I agree with the Sentence given before.

Viscount *Walsingham*. I am sorry a Man shou'd deserve so great a Censure, as this Man's foul Fault will make; yet I am very glad in this bold and quick-sighted Age, that other Men, by his Example, might take heed, not to exceed the Bounds of Modesty.

This Humour, it seemeth Self-love (which believes nothing but itself) hath begotten that, that hath bred this Gentleman up so summarily, that he spares not to accuse the highest and greatest Judge of the Kingdom, of Oppression, Injustice, Murder, nay, of any thing; which is not only spoken by so ill a Tongue, but aggravated by his Answer.

For it seems, he wou'd encourage other Men by the King's Book to do the like, wherein we may see the Malice of this Man, that will get Poison from the fairest Flowers; yet every Subject may take Comfort in his Majesty's Book, and God forbid, that he which is wrong'd, shou'd be restrained to complain to his Sovereign; yet, this Complaint is no Petition, but a very Libel, and deserves no other Name.

The King's Will is, that you should be bold, and that you should come to him, but yet you must be sure, that your Cause must be just and right. This is a good and gracious Speech of a King; but 'tis pity Mr. *Wraynham* alledges Scripture to maintain an ill Cause: And I do clear my Lord Chancellor dead, and alive, to be as worthy

Men as any in my Time, and yet I have lived a long Age; and God forbid their Consciences shou'd be led by private Mens Humours.

I say no more, but let every Man that hears us this Day, take heed, that their Humours lead them not into these outrageous Courses, but carry themselves with Modesty. I shall not need to enlarge, but consent with my Lords before me.

Earl of *Arundel*. I shall not need to use many Words for the Matter; in brief, *Wraynham* hath forgotten himself foully against a great and a high Instrument of Justice, renewing Complaints upon Complaints. After the King had told him in my hearing, that the Lord Chancellor had done justly, as he himself wou'd have done; therefore I think him very much to blame, and will deserve the Censure given: And the Use is (as you see by him) for malicious Men, not to suck Honey, but Venom and Poison of the wholesome Flowers, and as his Presumption is to be hated, so his Humiliation and Submission is to be pitied; yet I agree with my Lords in all Things.

*Pembroke*, Lord Chamberlain. No Man's Mouth is so stopp'd, but in Case of Grief he may seek Redress. I think there is little Scruple, that either the Master of the  
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Rolls that is dead, or this Lord Chancellor that is living, did proceed without Justice, because it is but an Order against an Order, a Thing very frequent and usual in this, and in all other arbitrary Courts.

For the Sentence, I agree with the Court, being sorry, since his last Submission was humble, that before he hath abused this good Part, and used his Wit to his own Confusion.

Duke of *Lenox*. I am sorry that *Wraynham* had not the Grace of God, to make use of his Majesty's Book, which is not to complain without just Cause; and without he cou'd make Proof of his Complaint, I will not repeat the Worth of my Lord Chancellor living, nor dead: but I am sorry that a Man of so good Parts, shou'd deserve so sharp a Sentence, whereunto, in all things I agree.

*Worcester*, Lord Privy-Seal. My Lords, I am of Opinion, as formerly my Lords have been, and do hold this a very scandalous Libel, being against a Person of such Worth; the greater the Person is, the more severe shou'd the Punishment be for the Offender: and so I concur in Opinion with my Lords before me, and do think this Offence to have exceeded his Punishment;

and therefore if a great Fine had been laid upon him, I shou'd have agreed unto it.

*Abbot*, Lord Arch-Bishop of *Canterbury*.  
The LORD, the Fountain of Wisdom, hath set this glorious Work of the World in the Order and Beauty wherein it stands, and hath appointed Princes, Magistrates, and Judges to hear the Causes of the People, not so much out of Authority, as out of Justice and Reason: For if no such Persons were to hear and determine other Mens Causes, every Man must be his own Judge, which wou'd tend to nothing but Ruin and preposterous Confusion: GOD therefore, in his Wisdom, orders and ordains their Bounds, in the Magistrate on the one Side with Instruction, and the Subject on the other Side, with Protection; which Instruction when he sheweth them, the King's Throne is upheld by Justice: and *David* was commanded to rule his People with Justice and Judgment; and the like Commandment is given to others in subordinate Places, not to pity the Person of the Poor, nor to stand in awe of the Face of the Mighty; but to weigh the Simplicity and Integrity of Conscience. For mark the Examples of the most Holy and Reverend Judges, *Moses*, *Samuel*, and the rest, to whom their greatest Comfort was, that they cou'd say, *Whose Ox or Ass have I taken? From whom have I received a Reward?*

And

And by the Course of Piety and Divinity, we that sit sometime to judge others, are at another time to stand at a higher Bar, to receive Judgment from Heaven.

With the great Grace, and Benefit of Protection, God calls them by his own Name, Gods, Children of the Highest; God being present amongst 'em to direct them, and to defend them; God standeth in the Congregation of Princes, he is amongst all his People: Thou shalt not detract nor slander the Judge, and speak evil of the Prince of the People. And in two several Epistles, both in *Peter* and in *Jude*, it is said, 'That in the latter days there shall be wicked Men, that shall speak evil of Magistrates, and Men in Authority, blaspheming 'em;' as if it were Blasphemy, tho' not against God, yet against those, that are the Image of so great a God.

And therefore, since *Wraynham* hath blasphemed and spoken evil, and slander'd a Chief Magistrate as any in the Kingdom; it remaineth, that in honour to God, and in Duty to the King and Kingdom, that he shou'd receive severe Punishment; for it is his Cause to-day, and it may be ours every day; and have not some, for Justice sake, been inforc'd to endure the threatning of their Bodies? Wherefore, if greater Punishment had been given him, I shou'd have assented; for Justice belongs to us, but Mercy to our gracious Sovereign. Wherefore

fore I agree in all Things with the Sentence before given.

*Suffolk*, Lord Treasurer. I perceive, as the Prisoner at the Bar was charged at the first, that he had freely assented, and ought to have yielded himself at the first, and not to have made his Offence greater, by defending a bad Cause.

My Lords who have heard his Cause in part laid out, and censured him, I think they have done very worthily for the Party himself. I would I could come to him with a little better Charity than I can, for his Answer did more displease me, than his Censure ; for I see his Spleen and his Humour grows, rather to defame a worthy Man, than to free himself, how unjustly, I appeal to the whole World : who came to his Place with as much Applause, with as good Carriage, and with as much Affection to all Hearts, as any Man I ever heard came before him.

The thing that I would conclude with, is, that I would be glad that all that hear us might take us aright that are Judges ; we desire not to be forborne by any Subject's Tongue, that hath cause to complain : And therefore do it not for any particular Respect to ourselves, but for the publick Course of Justice, and for the Care we have of the Publick Good, and for nothing else.

For

For the Fault itself, it hath been so well opened by all the Lords, that I will spare to hold you longer in speaking of it. And for the Sentence, I think it very fit and just: And therefore agree with the rest.

*F I N I S.*



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For this fault it hath been so well  
repaired by all the words that I will spare to  
old you longer in the telling of it. And for  
the sentence, I think very fit and just.  
And therefore give your self.



F I V I 2

